MISSOURI ETHICS COMMISSION
P.O. Box 1370
Jefferson City, MO 65102
www.mec.mo.gov
(573) 751-2020 / (800) 392-8660

James Klahr
Executive Director

Friday, March 18, 2016

Via U.S. Mail and Facsimile: (573) 751-5018

Allen Dickerson
Center for Competitive Politics
124 S. West St., Suite 201
Alexandria, VA 22314
adickerson@campaignfreedom.org

RE: Calzone v. Mo. Ethics Comm'n

15-1450 EC

Dear Mr. Dickerson:

Please find attached the Missouri Ethics Commission's Motion to Continue deadline to respond to Petitioner Calzone's Motion for Summary Decision ~~to be~~ filed in the above-referenced case.

Please contact me if you have any questions.

Sincerely,

Curt Stokes
Staff Attorney

Enclosure

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Friday, March 18, 2016

Via U.S. Mail and Facsimile: (573) 751-5018

Administrative Hearing Commission
P.O. Box 1557
Jefferson City, MO 65102

RE: Calzone v. Mo. Ethics Comm'n
15-1450 EC

Dear Commissioner:

Please find attached the Missouri Ethics Commission's Motion to Continue deadline to respond to Petitioner Calzone's Motion for Summary Decision filed in the above-referenced case.

Please contact me if you have any questions.

Sincerely,

Curt Stokes
Staff Attorney

Enclosure

C: Dickerson, Roland

BEFORE THE ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

RON CALZONE,	)	
	)	
Petitioner,	)	
	)	Case 15-1450 EC
v.	)	
	)	
MISSOURI ETHICS COMMISSION,	)	
	)	
Respondent.	)	

Motion to Continue Deadline for Respondent Missouri Ethics Commission's Response to Petitioner Calzone's Motion for Summary Decision

Respondent Missouri Ethic Commission respectfully requests a continuance from the current deadline of March 25, 2016, to respond to Petitioner Calzone's Motion for Summary Decision. Specifically, the Ethics Commission requests a continuance of thirty (30) days from the date of an order requiring Petitioner Calzone and his corporation, Missouri First, Inc., to comply with discovery. In support, the Ethics Commission states the following:

1. Respondent Missouri Ethics Commission incorporates by reference its Motion to Compel, filed Monday, March 14, 2016, the Administrative Hearing Commission's Order giving Petitioner Calzone until March 28, 2016, to respond, and the affidavit of Curt Stokes (*Exhibit 1*).

2. The Missouri Ethics Commission issued interrogatories and requests for production to Petitioner Calzone in December 2015, and noticed a deposition for the corporate designee of Missouri First, Inc., for March 8, 2016.

3. Both discovery requests were issued in a manner such that timely responses would have permitted the Ethics Commission to refer to the discovery responses in a response to Petitioner Calzone's Motion for Summary Decision, by March 25, 2016.

4. However, Petitioner Calzone, in no uncertain terms, refused to answer interrogatories[1] refused to provide response documents, and filed a Motion for Protective Order in response to the Ethics Commission's Notice of Deposition.

5. Respondent Missouri Ethics Commission filed a Motion to Compel Petitioner Calzone to respond to discovery and a Motion to Compel Missouri First, Inc., to designate a witness to appear for deposition on March 14, 2016, the deadline provided for a response to Petitioner Calzone's Motion for Protective Order.

6. The Administrative Hearing Commission has given Petitioner Calzone until March 28, 2016—three days after the Ethics Commission's

[1] Petitioner Calzone provided his name and address in response to interrogatory 1, but did not sign his answer under oath as required by Missouri Rules of Civil Procedure and the Rules of the Administrative Hearing Commission. Mo. R. Civ. P. 57.01(c)(5); *see* Resp.'s Motion to Compel at 5.

Response to Petitioner Calzone's Motion for Summary Decision is currently due—to respond to the Ethics Commission's Motion to Compel.

7. Petitioner Calzone's refusal to provide any discovery response, and Petitioner Calzone's objection to Respondent Ethics Commission's attempts to obtain discovery regarding Petitioner Calzone's alleged lobbyist principal, Missouri First, Inc., severely prejudices the Ethics Commission's ability to respond, on a complete and accurate record, to Petitioner's Motion for Summary Decision. In short, the Ethics Commission has "had no opportunity to develop their theory of the case." *Sims v. Harmon*, 22 S.W.3d 253, 256 (Mo. App. E.D. 2000).

8. Any decision by the Administrative Hearing Commission based on the current status of discovery would be premature and based on an incomplete record. *Sims v. Harmon*, 22 S.W.3d at 256-57.

9. An additional thirty (30) days, beginning the date of an order requiring the corporate designee for Missouri First, Inc., to appear for deposition, would be sufficient time for Petitioner Calzone to respond to discovery requests directed to him, and time to permit the Ethics Commission to schedule the deposition, obtain a certified transcript of that deposition, and to incorporate Petitioner Calzone's discovery responses and the relevant testimony from Missouri First, Inc.'s deposition into the Ethics Commission response to Petitioner Calzone's request for summary decision.

For the reasons stated above, Respondent Missouri Ethics Commission asks for a continuance from the current deadline of March 25, 2016, to respond to Petitioner Calzone's Motion for Summary Decision. Specifically, the Ethics Commission requests a continuance of thirty (30) days from the date of an order requiring Petitioner Calzone and his corporation, Missouri First, Inc., to comply with discovery.

Respectfully submitted,

Curtis R. Stokes #59836
Missouri Ethics Commission
P.O. Box 1370
Jefferson City, MO 65102
(573) 751-2020 (tel.)
(573) 522-2226 (fax)
Curt.Stokes@mec.mo.gov
Attorney for Respondent
Missouri Ethics Commission

Certificate of Service

I hereby certify that on March 18, 2016, a true and correct copy of the foregoing was served via email and U.S. Mail, postage prepaid, to the following:

David E. Roland
Freedom Center of Missouri
P.O. Box 693
Mexico, MO 65265
dave@mofreedom.org

Allen Dickerson
Center for Competitive Politics
124 S. West St., Suite 201
Alexandria, VA 22314
adickerson@campaignfreedom.org

Attorneys for Petitioner Calzone

Curtis R. Stokes

State of Missouri)
County of Cole)

Affidavit of Curt Stokes

Before me, the undersigned authority, personally appeared Curtis R. Stokes, who, being by me duly sworn, deposed as follows:

1. My name is Curt Stokes (affiant). I am of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated.

2. On December 28, 2015, I propounded Interrogatories and Requests for Production to Petitioner Ron Calzone in Administrative Hearing Commission case 15-1450 EC.

3. Petitioner Calzone's answers to these interrogatories were due on or before January 27, 2015.

4. On January 15, 2016, Petitioner Calzone objected to every interrogatory and every request for production. Petitioner Calzone provided his name and address in response to Interrogatory 1, but his answer was not signed under oath. Petitioner Calzone did not provide any documents in response the requests for production.

5. I agreed with counsel for Petitioner Calzone that the Ethics Commission would forego enforcement of its discovery requests until after the Administrative Hearing Commission's decision on Petitioner Calzone's Motion for Decision on the Pleadings.

6. Following the Administrative Hearing Commission's order denying Petitioner Calzone's Motion for Decision on the Pleadings, I again spoke with Petitioner Calzone's counsel, who indicated that Petitioner Calzone continued to object to the discovery requests, and would not provide any responses.

7. On February 24, 2106, after conferring with Petitioner Calzone's counsel for available dates, I issued a notice of deposition and prepared a subpoena and subpoena *duces tecum* directed to Missouri First, Inc., to provide requested documents and to appear on March 9, 2016, for a corporate designee deposition.

8. Petitioner Calzone filed a Motion for Protective Order in response to that notice of deposition.

9. To date, Petitioner Calzone has not responded to any discovery requests issued to him, and filed a Motion for Protective Order seeking to prohibit the deposition of the corporation Missouri First, Inc.

10. Missouri First, Inc., is the corporation at the center of the factual dispute in this case. Specifically, the parties disagree whether and to what

EXHIBIT
1

extent Missouri First, Inc., designated Petitioner Calzone as a legislative lobbyist, and whether and to what extent Petitioner Calzone attempted to influence Missouri legislation on behalf of Missouri First, Inc. and its constituent members.

11. Respondent's answers to the first set of interrogatories will provide information as to persons with knowledge relating to Petitioner Calzone's denials of these allegations.

12. Respondent's responses to the first set of requests for production will provide information as to Petitioner Calzone's authority to designate lobbyists for Missouri First, Inc., and Petitioner Calzone's attempts to influence legislation on behalf of Missouri First, Inc.

13. The deposition of the corporate designee for Missouri First, Inc., regarding the topics noticed in the subpoena will provide information as to Petitioner Calzone's authority to designate lobbyists for Missouri First, Inc., and Petitioner Calzone's attempts to influence legislation on behalf of Missouri First, Inc.

14. The response of Missouri First, Inc., to the subpoena *duces tecum* will provide information as to Petitioner Calzone's authority to designate lobbyists for Missouri First, Inc., and Petitioner Calzone's attempts to influence legislation on behalf of Missouri First, Inc.

15. It is my sincere belief that providing any more information in this affidavit "would invade [my] thought processes, discovery and trial strategy," *Sims v. Harmon*, 22 S.W.3d 253, 257 (Mo. App. E.D. 2000), but I am prepared to provide a supplemental affidavit in support of Respondent Missouri Ethics Commission's request for continuance if requested.

Curtis R. Stokes

In witness whereof I have hereunto subscribed my name and affixed my official seal this 18th day of March, 2016.

JUDY GROTHOFF
Notary Public - Notary Seal
State of Missouri
Commissioned for Callaway County
My Commission Expires: August 30, 2016
Commission Number: 12571512

Notary Public

Printed Notary Name: Judy Grothoff

My commission expires: 8-30-16